

## **REMARKS/ARGUMENTS**

Claims 62–85 remain in the application unamended. Claim 86 has been added. It is Applicant's position that the claims have been drafted with the appropriate limitations to overcome Examiner's previous rejections and objections, and that they do not introduce new matter.

Examiner has indicated that Applicant's previous reply, filed on March 13, 2008, was not fully responsive to the prior Office action because: (1) the reply did not show that the Operator's Manual for the International 800 and 1000 series corn heads (i.e., Exhibit A-1) was published prior to the filing date of the application (i.e., 12/03/2003); and (2) the Examiner considers amended claims 62 and 83 to contain new matter.

Applicant herein submits an additional exhibit, Exhibit B-1, which is the back cover of the Operator's Manual for the International 800 series corn head. The Operator's Manual for the International 800 series corn head did not contain a copyright notice. However, Exhibit B-1 shows that the Operator's Manual for the International 800 series corn head was published in March of 1974 (bottom right corner "3-74"), which is before the filing date of the application.

As previously presented, claims 62–85 are directed towards an improved arrangement of a corn head row unit wherein the stalk rolls consume at least 60 inches of stalk during the time required for a gathering chain paddle to traverse the exposed fluted area of a stalk roll. Examiner has stated that because 60 inches was not disclosed in the original disclosure, claims 62 and 83 contain new matter.

Applicant submits that claims 62 and 83 as previously presented do not introduce new matter. In the original application, Applicant disclosed field testing in which Applicant reduced the speed of the gathering chain paddles by 20 percent (paragraph 0030). As previously shown in the Reply filed 13 March 2008, one of ordinary skill in the art could easily calculate that, as configured from the factory, the 800 and 1000 series corn heads consumed 52 inches of corn plant stalk in the amount of time it took one gathering chain paddle to traverse the exposed fluted area. Outfitted with 4-inch diameter stalk rolls, the corn head would consume 55 inches of stalk

in this time. Applicant disclosed that one method for reducing stalk shear was to reduce the speed of the gathering chain paddles (paragraph 0014).

Applicant has consistently submitted claims directed towards an improved corn head row unit wherein the stalk shear is minimized by reducing the size of the gathering chain drive sprocket (*see* original claim 15 and current claims 65–67). As is well known to those skilled in the art, the Case/IH 800 and 1000 series corn heads were outfitted from the factory with gathering chain drive sprockets having 10 teeth. Accordingly, Applicant’s original claim 15 should be construed to cover a Case/IH 800 or 1000 series corn head having a 9-tooth gathering chain drive sprocket (i.e., broadest reasonable interpretation), because Applicant’s disclosure enabled one of ordinary skill in the art to configure a corn head in such a manner. Using a 9-tooth gathering chain drive sprocket results in the Case/IH 800 or 1000 series corn head consuming 60 inches of corn plant stalk in the time required for one gathering chain panel to traverse the exposed fluted area. This calculation may be performed easily by one of ordinary skill in the art using the elementary geometric relations in Applicant’s reply filed March 15, 2008.

The fact that outfitting such a corn head with a 9-tooth gathering chain drive sprocket results in the corn head consuming 60 inches of stalk in the time required for a gathering chain paddle to traverse the exposed fluted area of the stalk roll is an **inherent function** of the corn head row unit as configured according to Applicant’s disclosure. That is, the configuration of a Case/IH 800 or 1000 series corn head having a 9-tooth gathering chain drive sprocket, as disclosed by Applicant in the original disclosure, **necessarily** consumes 60 inches of corn plant stalk during the time required for a gathering chain paddle to traverse the exposed fluted area of a stalk roll. Accordingly, including 60 inches in claims 62 and 83 is not new matter. (*See In re Reynolds*, 443 F.2d 384 (CCPA 1971); *In re Smythe*, 480 F.2d 1376 (CCPA 1973).

A Case/IH 800 or 1000 series corn head outfitted with an 8-tooth gathering chain drive sprocket would **necessarily** consume 65 inches of stalk in the relevant time. Therefore, for the preceding reasons, claim 86 is not new matter.

### **CONCLUSION**

In light of the above amendments and remarks, Applicant submits that the claims do not contain new matter and are in condition for allowance, and requests that the outstanding rejections and objections be withdrawn. If a telephone conference would expedite allowance of the claims, the examiner may wish to telephone Applicant's Attorney at (563) 441-0207.

Respectfully submitted,

MARION CALMER,

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EXHIBIT B-1

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